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E-filed 7/13/05

5 Attorneys for Plaintiff
6 HORTA, LLC

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION

11 HORTA, LLC,
12 Plaintiff,
13 v.
14 CITY OF SAN JOSE,
15 Defendant.

CASE NO. C 02-04086 JF (RS)
[Related Case No. C 00-20018 JF]

**STIPULATION AND [PROPOSED] ORDER
CONTINUING AUGUST 5, 2005 HEARING
ON HORTA, LLC'S MOTION TO
RECONSIDER, REOPEN, AND AMEND
JUDGMENT**

[Civil Local Rule 6-2]

Judge: Hon. Jeremy Fogel
Complaint: August 23, 2002

STIPULATION

WHEREAS, on February 28, 2005, the Court entered judgment in this action;

WHEREAS, on March 14, 2005, plaintiff Horta, LLC ("Horta") filed its Motion to Reconsider, Reopen, and Amend Judgment (the "Motion to Amend") and set it for hearing on May 6, 2005;

WHEREAS, on May 6, 2005, the Court continued the hearing on the Motion to Amend to August 5, 2005 to permit Horta to conduct additional discovery relating to issues presented in the Motion to Amend;

WHEREAS, Horta has served discovery on non-party Federal Aviation Administration (“FAA”), in the form of document requests and requests for deposition testimony relating to issues presented in the Motion to Amend;

WHEREAS, the FAA has provided a partial production of documents responsive to Horta's document requests;

WHEREAS, the FAA has neither completed its production nor provided a date certain by which the production will be completed;

WHEREAS, Horta is still meeting and conferring with the FAA regarding Horta's document requests;

WHEREAS, the FAA has not yet provided Horta any of the requested deposition testimony;

WHEREAS, Horta has additional discovery to conduct once it obtains the FAA's complete responses to Horta's discovery requests and the deposition testimony of certain FAA representatives;

WHEREAS, Horta requires additional time to complete discovery pertaining to the issues raised in the Motion to Amend;

WHEREAS, Horta and the City of San Jose (the "City") agree that the August 5, 2005 hearing on the Motion to Amend should be continued for at least ninety (90) days;

1 THEREFORE, IT IS HEREBY STIPULATED by and between the parties to this action
2 that the August 5, 2005 hearing on Horta's Motion to Amend shall be continued at least ninety
3 (90) days.

4 Dated: July 7, 2005
5

6 DLA PIPER RUDNICK GRAY CARY US LLP
7

8 By 
9 JAMES M. CHADWICK
DIANA NG FUNG
10 Attorneys for Plaintiff HORTA, LLC

11 Dated: July ___, 2005
12

13 RICHARD DOYLE, City Attorney
14

15 By 
16 NORA FRIMANN
JOSEPH P. DICUCCIO
SANDRA LEE
17 Attorneys for Defendant CITY OF SAN JOSE

18 **ORDER**
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20 PURSUANT TO STIPULATION, IT IS SO ORDERED. The hearing on Horta's Motion
21 to Reconsider, Reopen, and Amend Judgment is further continued from August 5, 2005 to
22 November 4, 2005, at 9:00 a.m., in the courtroom of the Honorable Jeremy Fogel, located at
23 280 South First Street, San Jose, California.
24

25 Dated: July 13, 2005
26

27 /s/electronic signature authorized
28

29 JEREMY FOGEL
30 UNITED STATES DISTRICT COURT JUDGE

1 THEREFORE, IT IS HEREBY STIPULATED by and between the parties to this action
2 that the August 5, 2005 hearing on Horta's Motion to Amend shall be continued at least ninety
3 (90) days.

4 Dated: July 1, 2005

5 DLA PIPER RUDNICK GRAY CARY US LLP

6 By _____
7 JAMES M. CHADWICK
8 DIANA NG FUNG
9 Attorneys for Plaintiff HORTA, LLC

10 Dated: July 1, 2005

11 RICHARD DOYLE, City Attorney

12 By Nora Frimann
13 NORA FRIMANN
14 JOSEPH P. DICUCCIO
15 SANDRA LEE
16 Attorneys for Defendant CITY OF SAN JOSE

17 **ORDER**

18 PURSUANT TO STIPULATION, IT IS SO ORDERED. The hearing on Horta's Motion
19 to Reconsider, Reopen, and Amend Judgment is further continued from August 5, 2005 to
20 November 1, 2005, at 9:00 a.m., in the courtroom of the Honorable Jeremy Fogel, located at
21 280 South First Street, San Jose, California.

22 Dated: July 1, 2005

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25 JEREMY FOGEL
26 UNITED STATES DISTRICT COURT JUDGE
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29 STIPULATION AND [PROPOSED] ORDER RE HEARING DATE FOR HORTA, I.I.C.'S
MOTION TO AMEND JUDGMENT — CASE NO. C 02-04086 JF (RS)